

REMARKS

I. Response to Restriction Requirement and Species Election

Applicants hereby provisionally elect the invention defined by claim Group I (including claims 1-25) for prosecution herein. For the reasons discussed below, this election is, however, made with traverse.

Applicants also elects Species A of the invention shown in FIGURES 2A and 2B. Claims 1-21 and 24-30 appear to read on the elected species, with at least claims 1 and 25 being generic thereto.

II. Request for reconsideration and withdrawal of restriction requirement

Applicants hereby request that the restriction requirement as between the claims of Group I (including claims 1-25) and Group II (including claims 26-30) be reconsidered and withdrawn.

Specifically, applicants note that the definition of the invention provided by claim 25 of Group I is **generic** to the definition of the invention defined by claims 26-30 of Group II. Thus, the issue here is one of **scope** of the defined invention. That is, while several species of the invention are contemplated, such species are part of a single disclosed embodiment of the invention – namely, one wherein light-diffusing particles are affixed to a terminal end of an optical fiber.

MPEP §806.03 states in pertinent part:

"Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should *never* be required. This is because the claims are but different

definitions of the same disclosed subject matter, varying in breadth or scope of definition. (emphasis added)

The Examiner acknowledges that only a difference in breadth or scope of definition of an embodiment of the invention is presented here since he states that:

"As to claim 25 [of Group I], it is not patentably distinct over the device of claim 1 because the broad step of affixing is inherent in the 'particles affixed' of claim 1"

Using the Examiner's own rationale therefore, the broad step of affixing the particles is generic to the more limited definition of such step provided by claims 26-30 ***each of which is dependent directly or indirectly from generic claim 25***. By way of specific example, please note in this regard that claim 26 further limits the "affixing" step of claim 25; claim 27 further limits the "affixing" step of claim 26; and claim 28 further limits the "affixing" step of claim 27.

At a minimum, claim 25 ***links*** the inventions of Groups I and II. As such, allowance of claim 25 would in any event necessitate withdrawal of the subject restriction requirement. (MPEP §809)

For the reasons advanced above, applicants request that the restriction requirement advanced between claims 1-25 on the one hand, and claims 26-30 on the other hand, be reconsidered and withdrawn.

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An action on the merits of ***all*** pending claims is therefore solicited.

Respectfully submitted,

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